

spirits and wines withdrawn for transfer to a manufacturing bonded warehouse shall remain unaccounted for until the evidence of deposit in such warehouse, as required by this part, has been filed with the regional director (compliance). The proprietor shall, at the time of executing Form 2737, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2737, such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* If the bond, Form 2737 is in less than the maximum penal sum, the principal shall apportion the bond, in accordance with the requirements on the bond form. The principal may reapportion the bond coverage, if changing conditions make this necessary, by filing a consent of surety, Form 1533, for approval by the regional regulatory administrator.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71721, Dec. 11, 1979]

#### § 252.65 Bond, Form 2738.

Whenever, under the provisions of this part, the claimant desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, or, in the case of distilled spirits, transferred to a customs bonded warehouse, as authorized in §§ 252.171 and 252.211, prior to the receipt by the regional regulatory administrator of the certified copy of ATF Form 5110.30, or 1582-A, as the case may be, as prescribed by this part, he shall file bond on Form 2738 with the regional regulatory administrator as provided in § 252.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond:

*Provided,* That the maximum penal sum shall not exceed \$200,000, but in no case shall the penal sum be less than \$1,000: *Provided further,* That where the claimant desires to remove distilled spirits to a customs bonded warehouse as provided in § 252.171(d) and the terms of his bond on Form 2738, then in force, do

not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2738.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71721, Dec. 11, 1979; T.D. ATF-198, 50 FR 8559, Mar. 1, 1985]

#### § 252.66 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1352, 1394; 26 U.S.C. 5175, 5551)

#### § 252.67 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the regional director (compliance), be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 252.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a new or superseding bond when required, he shall discontinue the operations intended to

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be covered by such bond forthwith. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1336, 1362; 26 U.S.C. 5062, 5214)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979]

### TERMINATION OF BONDS

#### **§ 252.70 Termination of bonds, Forms 2734 and 2736.**

Bonds, Forms 2734 and 2736, covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the regional director (compliance) on receipt by him of ATF Form 5100.11 properly executed by the appropriate customs official or armed services officer, as required by this part, evidencing that the distilled spirits or wines have been duly exported, laden for use on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be, or of evidence satisfactory to him that the distilled spirits or wines have been otherwise lawfully disposed of or accounted for: *Provided*, That all liability under the bond to be canceled has been terminated.

(72 Stat. 1352; 26 U.S.C. 5175)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979]

#### **§ 252.71 Termination of bonds, Forms 2735, 2737, and 2738.**

Continuing bonds, Forms 2735 and 2737, covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part and Form 2738 covering allowance of claims for drawback on distilled spirits and/or wines removed as authorized in §§ 252.171 and 252.211, may be terminated as to liability for future withdrawals or claims (a) pursuant to application of surety as provided in § 252.72, (b) on approval of a superseding bond, or (c) on written notification to the regional director (compliance) by the principal of his discontinuance of withdrawals or claims, as the case may be, under the bond. When no further withdrawals are to be made under a bond on Form 2735 or 2737, or no further claims for draw-

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back are to be filed under bond Form 2738, the bond shall be canceled by the regional director (compliance) in the manner and subject to the conditions provided in § 252.70.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. ATF-198, 50 FR 8559, Mar. 1, 1985]

#### **§ 252.72 Application of surety for relief from bond.**

A surety on any bond given on Forms 2735, 2737, or 2738, may at any time in writing notify the principal and the regional director (compliance) in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 252.73(b).

(68A Stat. 749, as amended (26 U.S.C. 6065); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended (26 U.S.C. 5062, 5175))

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979]

#### **§ 252.73 Relief of surety from bond.**

(a) *Bonds, Forms 2734 and 2736.* The surety on a bond given on Form 2734 or Form 2736 shall be relieved from his liability under the bond when the bond has been canceled as provided for in § 252.70.

(b) *Bonds, Forms 2735, 2737, and 2738.* Where the surety on a bond given on Form 2735, Form 2737, or on Form 2738 has filed application for relief from liability, as provided in § 252.72, the surety shall be relieved from liability for withdrawals or claims, as the case may